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Letter dated 22 February 2001 from the Permanent Representative of Togo to the United Nations addressed to the Secretary-General

On the instructions of my Government, I have the honour to transmit to you herewith the documents containing the reaction of the Government of Togo following the appearance of the report of the United Nations-Organization of African Unity (OAU) International Commission of Inquiry for Togo, which had the task of examining the allegations of human rights violations made by Amnesty International against Togo in May 1999.

I also enclose the letter dated 19 February 2001 concerning this subject from Mr. Salim Ahmed Salim, Secretary-General of OAU, to Mrs. Mary Robinson, United Nations High Commissioner for Human Rights.

I should be grateful if you would have this letter and its annexes circulated as a document of the General Assembly under agenda item 114.

(*Signed*) Roland Y. **Kpotsra**
Permanent Representative

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Annex I to the letter dated 22 February 2001 from the Permanent Representative of Togo to the United Nations addressed to the Secretary-General

Reaction of the Togolese Government

On 5 May 1999, Amnesty International published a grossly misleading report attacking the Togolese authorities and accusing them of barbarous acts.

The report inter alia stated:

> "In June 1998, during the Presidential election campaign, and after the results were announced, hundreds of people, including members of the military, were extrajudicially executed. Bodies were retrieved from the beaches of Togo and Benin and corpses were seen at sea for at least four days around Benin."

Following this slander, the Togolese Government requested that a Commission of Inquiry should be constituted under the auspices of the United Nations and the OAU to address this insane accusation of hundreds of deaths.

The composition of the Commission and its experts raised some comments on the part of the Togolese Government, as some of its members have links with Amnesty International.

The report, which has just been issued, calls for the following comments:

1. The Government notes with satisfaction that at no time does the Commission adduce any proof of the far-fetched allegations made by Amnesty International concerning the alleged hundreds of victims. At no time has the Government been notified of the victims' identities or claims by their families, as would undoubtedly have been the case if there had been real victims.

The Commission, in order to avoid speaking out against Amnesty International, merely says that it can neither confirm nor deny the truth of the matters into which it inquired. This conclusion is enough in itself to show that Amnesty International has not provided any proof in support of its allegations.

2. It is thus established that Amnesty International has made irresponsible, unworthy and unproven allegations against the Togolese Government.

3. The Government of Togo notes that in order to conceal the serious errors committed by Amnesty International, the Commission, on the initiative of its Chairman, who has links to Amnesty International, attempted to obscure the issue by exceeding its mandate, which is to inquire into the extrajudicial executions which were allegedly committed in June 1998 during the campaign and after the declaration of the results of the Presidential elections, by repeating far-fetched and defamatory allegations which are so ridiculous as to rob the report of all credibility.

In actual fact, these gratuitous imputations, in disregard of the adversarial principle, are outside the sphere of action of the Commission and are therefore null and without any effect.

4. The Government has continued to denounce the misleading nature of the Amnesty International report. This report originates in a collection of elements put

together at the request of Mr. Gilchrist Olympio by militants of the CDPA (African People's Convention) under the leadership of its Secretary-General, Professor Léopold Gninivi, to supply the private Togolese opposition press. The work thus commissioned by Mr. Gilchrist Olympio with the aim of destabilizing the Government of Togo was taken by him and immediately entrusted to Mr. Pierre Sané, Secretary-General of Amnesty International, with a view to publishing it as an Amnesty International report against Togo.

Mr. Olympio did indeed make contact with Mr. Pierre Sané, and negotiated a price of US$ 500,000 to be paid in two instalments of US$ 300,000 and US$ 200,000.

The contacts and the payments are confirmed by three letters from Mr. Olympio addressed to Mr. Pierre Sané and dated respectively 19 January 1999, 29 January 1999 and 17 May 1999, after the publication of the notorious Amnesty International report.

All in all, the question of the Amnesty International report against Togo is simply a vast manipulation undertaken because of the backhander paid by Mr. Olympio to Mr. Pierre Sané.

A group of corrupt individuals is not justified in giving Togo lessons in human rights.

5. The Government of Togo, which is committed to respect for human rights and freedoms, will not deviate from the principles it has always held. In fact, on 25 October 1989, Mr. Peter Duffy, the then Secretary-General of Amnesty International, told the media after a visit to Togo:

> "We were very pleased that the Head of State gave us the opportunity to engage in dialogue with him on the whole range of our global concerns. He told us his point of view that human rights are fundamental and should be respected. He particularly explained to us, when I told him of a big campaign Amnesty International is currently launching against the death penalty in the world, which we think is cruel and inhuman treatment, that for him, since his accession to power in Togo, he has always taken the decision that human rights are very important and should not be flouted, even in grave circumstances.
>
> "This is something we have already noted and I believe it is very important. We have also noted in recent years that Togo has accepted and respected its international commitments in the field of human rights ... "

The Government of Togo is determined to ensure the promotion of a state of law and of freedoms without allowing itself to be distracted by those who, like Gilchrist Olympio and his accomplices, make a pretence of respecting human rights, but who have repeatedly led violent attacks against the Togolese population, attacks which really have resulted in several hundred real victims.

Report of the Government of Togo on the Amnesty International affair

1. The Amnesty International report

On 5 May 1999, Amnesty International published a grossly misleading report attacking the Togolese authorities and accusing them of barbarous acts. The most damning passage concerned the period of the June 1998 Presidential election.

The report inter alia stated:

> "In June 1998, during the Presidential election campaign, and after the results were announced, hundreds of people, including members of the military, were extrajudicially executed. Bodies were retrieved from the beaches of Togo and Benin and corpses were seen at sea for at least four days around Benin."

2. The political circumstances

It should be pointed out that the Amnesty International report was deliberately published on the day when the facilitators of the inter-Togolese dialogue were to arrive in Lomé.

The aim was therefore to paralyse this dialogue, which the terrorist faction of the opposition led by Gilchrist Olympio was against, unlike the other opposition parties. This fact alone is enough to demonstrate the complicity between, on the one hand, the authors of the report and especially the Secretary-General of Amnesty International, Mr. Pierre Sané, and, on the other hand, Mr. Gilchrist Olympio. A similar complicity occurred, at the time of the Presidential election, between Mr. Olympio and the European Regional Information Society (ERIS), an association working for the European Union to observe the election. This was denounced by the former Prime Minister of France, Mr. Michel Rocard.

3. The judicial proceedings and inquiry

As soon as the Amnesty International report was published, the Government of Togo instituted legal proceedings against the authors of the report and their accomplices.

A judicial case was furthermore opened concerning the crimes allegedly committed.

An investigation conducted, beach by beach, by the national gendarmerie as part of the inquiry helped to show that none of the facts referred to in the report were correct.

In connection with the complaint of the Minister of Defence, the first examining magistrate charged four people on 7, 14 and 20 May 1999 with complicity to commit an offence against honour, dissemination of false information and incitement to revolt.

The persons questioned as part of the inquiry pointed out furthermore that while they had reported rumours to fuel the Amnesty International report, they had never mentioned any of the imagined deaths referred to therein.

Those asked the question:

> "The Amnesty International report refers to hundreds of bodies found on the beaches of Togo and Benin. What do you say to this?"

responded on 11 May 1999 as follows:

Mr. Gayibo laughed and said:

"I personally never heard about that."

Mr. Tengue himself said:

> "Hundreds of bodies! For me, that sounds like science fiction. And there was no mass gathering? You know the problem of mass gatherings in Togo. We love dead bodies. Hundreds of bodies and no reaction? The whole town would have stayed home for the funerals."

Another person questioned, Brice Sant'Anna, said:

> "Mr. Tengue also asked us to add some phoney information about alleged human rights violations.
>
> "That is how the members of Amnesty International came to be handed a document we had prepared under those conditions. That document was later seized by the police. It contained the following sentence: 'for some time discoveries of dead bodies have been made on the Togolese coast'.

"I think it is this erroneous information that was then turned by the members of Amnesty International, serving as accomplices of Gilchrist Olympio, into an accusation concerning a hundred or so deaths.

"We did not check on the truthfulness of the information published.

"I know that when he came to Lomé, Gaétan Moutoo of Amnesty International slept for the first night at the home of Mr. Gninivi, with whom he had been friendly at Tokoin Wuiti.

"He later went to Le Bénin hotel, but we were asked to look after him and give him our press files for him to add to his report against Togo.

"In the course of those meetings, I learnt that Mr. Sané was a friend of Gilchrist Olympio, whom he had met on several occasions and whose action he supported.

"We prepared several visits by Mr. Moutoo to the interior of the country. In that connection, we asked some local people to come forward and say that they had been victims of human rights violations. They then repeated those allegations to Mr. Moutoo. I myself led the Amnesty International representatives around the Lakes prefecture, while Mr. Tengue took them to Notsé."

The judicial inquiry thus reveals that:

- The facts adduced by Amnesty International are incorrect;
- The Amnesty International report is the product of complicity between the leaders of Amnesty International and some terrorist opposition leaders, including Gilchrist Olympio.

4. The concordant international testimony of observers and journalists

The inquiry confirms what all the observers and journalists present in Lomé at the time of the Presidential election themselves noted.

None of them lends credence to Amnesty International's claims. They all confirmed the calm and quiet atmosphere of the election and they never heard anyone report these alleged deaths. This is also what an Africa specialist, the journalist Stephen Smith, confirmed in the daily newspaper *Libération*.

The President of the French Republic, Mr. Jacques Chirac, while visiting Lomé in July 1999, for his part described the Amnesty International report as being the result of manipulation.

5. The request by Togo for a commission of inquiry

In the light of the above, the leaders of Amnesty International should have been put on trial in Lomé.

However, in order to provide evidence of his good will and undeniably bring out the truth, the President of the Togolese Republic, Gnassingbé Eyadéma, called for an international commission of inquiry to be set up under the joint auspices of the United Nations and the Organization of African Unity.

After its mandate was defined, the Commission was set up on 7 June 2000. Its establishment was announced in a joint press release of the United Nations and the Organization of African Unity. The press release states that the Commission was set up at Togo's initiative.

6. The Commission's mandate

The Commission was given the task of verifying whether or not the following allegations in the Amnesty International report are founded:

"In June 1998, during the Presidential election campaign, and after the results were announced, hundreds of people, including members of the military, were extrajudicially executed. Bodies were retrieved from the beaches of Togo and Benin and corpses were seen at sea for at least four days around Benin."

7. Composition of the Commission

The Commission is composed of the following:

Chairman:

Mr. Mahamat Hassan Abakar (Chad);

Members:

Mr. Paulo Sergio Pinheiro (Brazil);
Mr. Issaka Souna (Niger).

The Commission was assisted by a support team. The composition of this team raised some comments on the part of the Government of Togo, as certain of the members proposed had had links to Amnesty International.

Following the removal of these members, the Chairman of the Commission informed the Government that he himself had conducted missions for Amnesty International and asked whether this would make it necessary for him to resign from his post. The Government replied that it did not intend to take any decision which it was the Chairman's prerogative to take as his conscience dictated.

The Government of Togo does not intend to interfere in the Commission's activities; it simply wishes to see an independent and impartial inquiry bring out the truth after the wild accusations which have been brought to bear against Togo.

However, it cannot help but regret that certain members of the Commission were chosen from among Amnesty International teams, which casts doubt on their work.

8. Prior conditions

Two prior conditions set by the Commission delayed its arrival in Lomé:

(a) It was requested that judicial proceedings against Pierre Sané and his accomplices should be suspended. This is quite an unusual request in a State under the rule of law.

Nevertheless, the Head of State agreed that the Government of Togo would withdraw its complaints as soon as the Commission arrived in the field.

(b) It was also requested that the security of witnesses should be guaranteed. This request was granted all the more willingly as the Government of Togo, which had requested the establishment of the Commission of Inquiry, naturally wished in no way to bring its work to a standstill or influence its investigations.

In a press release dated 20 October 2000, the Commission stated:

> "The Government of Togo, at the request of the Commission and in accordance with its previous undertakings to cooperate fully with the inquiry, has agreed to the following:
>
> Concerning the case against Pierre Sané, Secretary-General of Amnesty International, the Government of Togo has decided to drop all proceedings against Pierre Sané and the other individuals involved in the allegations which are the subject of this inquiry, as soon as the Commission has begun its work in the field, i.e. in Lomé.
>
> Concerning the protection of witnesses and the Commission's sources, the Government of Togo has confirmed that no one will be harassed or prosecuted for having testified before or cooperated with the Commission of Inquiry."

9. Work of the Commission of Inquiry

The Commission held its first meeting in Geneva from 31 July to 4 August 2000. At this meeting, it adopted measures relating to its methods of work. It held a second meeting in Geneva from 18 to 22 September 2000.

It met twice in Togo, in November and December 2000. It was provided with full facilities for conducting its investigations and interviewing anyone it deemed necessary with a view to obtaining as much information as possible. The Commission also travelled to Benin and Ghana, although that country was not covered by its mandate.

Thus the Government of Togo, which had requested the establishment of the Commission of Inquiry, did everything in its power to help it to discharge its mandate while fully protecting its independence.

It should also be noted that the Government received no requests from the Commission of Inquiry concerning the identity of any particular person who might have been the victim of these alleged summary executions during the period of the Presidential election, which would certainly have been the case if such events had occurred.

10. Violation by the Commission of the adversarial principle

In a letter received on 12 December 2000, the Chairman of the Commission provided the Minister of

Justice with a list of persons reported to have disappeared or to have been the victims of extrajudicial executions.

In a letter dated 20 December 2000, the Minister of Justice replied as follows:

> "Sir, in reply to your letter of 10 December 2000, I would remind you that the competence of your Commission, which was established at the request of the Government of Togo, relates to the verification of the following point:
>
> > 'In June 1998, during the Presidential election campaign, and after the results were announced, hundreds of people, including members of the military, were extrajudicially executed. Bodies were retrieved from the beaches of Togo and Benin and corpses were seen at sea for at least four days around Benin.'
>
> Your mandate is therefore limited *ratione temporis, ratione materiae* and *ratione loci*.
>
> I note, however, that your request does not fall within your competence. It is therefore impossible for me to meet it, which does not mean that Togo will refuse to provide the human rights bodies with full information concerning the wild allegations of executions and disappearances which you report.
>
> But I must remind you of the purpose of your mission. Togo has been unfairly accused by Amnesty International of hundreds of summary executions during the period of the Presidential election; we are still awaiting a list of these hundreds of executions alleged by Amnesty International, and I find it astonishing that you have not provided us with a single document in this connection while at the same time exceeding your mandate.
>
> Accept, Sir ...".

Nevertheless, the Minister of Justice applied on the same day to the Chairman of the National Human Rights Commission asking him to conduct an inquiry into these gratuitous accusations which exceed the Commission's terms of reference.

11. Inequality of treatment by the Commission in favour of the Union des forces de changement (UFC)

In a letter dated 19 November 2000, Chairman Amegah forwarded to the International Commission of Inquiry various documents relating to the Amnesty International affair.

These documents appear to have been transmitted by the Chairman of the Commission of Inquiry to the Union des forces de changement.

This action shows that the Commission's procedure is developing in keeping with the adversarial principle.

The Government notes, however, that this procedure is one-sided.

At no time was the Government provided with documents in support of Amnesty International's false accusations concerning so-called hundreds of deaths, such as the victims' identities, complaints lodged by the families, etc.

The Government can only conclude that Amnesty International has been unable to furnish any reliable documents incriminating the Government of Togo.

Having been seriously libelled by the Amnesty International report, the Government is entitled to be informed of the material put forward to support the outrageous charge that hundreds of people were killed.

The Government therefore made a request to the Commission, to the effect that any such document, if any existed, which it received from any party whatsoever, should be transmitted to the Government in order to guarantee that an adversarial procedure was followed. This has not been done.

It will be noted that the Commission has taken care not to make any reference in its report to the documents transmitted by the Government of Togo to the Commission which indicate an unethical relationship between Pierre Sané and Amnesty International, whereas, in order to clear Amnesty International's leaders, the Commission accuses the Togolese authorities of attempts to bribe unidentified persons. This is an unquestionable example of the Commission's bias.

Thus the rule of impartiality and equal respect for the rights of all parties, which is an essential component of the Commission's work, has been violated.

12. Submission of the Commission's report

The Commission transmitted its confidential report to the Government of Togo on 17 January 2001, without observing an adversarial procedure at any time. At no time did the Commission communicate lists of names of the hundreds of missing persons or of complaints lodged by their families.

13. Conclusions of the Government of Togo concerning the Commission's report

(a) The Government notes with satisfaction that at no time did the Commission provide any evidence supporting Amnesty International's wild allegations of so-called hundreds of victims. At no time were the victims' identities or their families' complaints submitted to the Government in accordance with an adversarial procedure, which would have certainly been the case if the victims had really existed. To avoid deciding against Amnesty International, the Commission states that it can neither confirm nor invalidate the allegations which were the purpose of its mission. This conclusion alone is enough to show that Amnesty International has provided no evidence in support of its allegations. It also shows that the Commission has not fulfilled its mandate.

(b) It is thus established that Amnesty International has irresponsibly, contemptibly and groundlessly libelled the Government of Togo.

(c) The Government of Togo notes that, in order to conceal the serious errors committed by Amnesty International, the Commission, at the initiative of its Chairman, who has links to Amnesty International, attempted to confuse the issue by exceeding its mandate and taking up wild and libellous allegations which are so ridiculous as to make the report devoid of all credibility.

By way of example: arbitrary abductions allegedly took place under the supervision of a captain, but what abductions were they and when was the person accused heard by the Commission? Rapes allegedly took place at the prompting of the Prime Minister, but what rapes and when was the Prime Minister given the opportunity to be heard in order to reject these wild allegations? What connection do these wild and libellous statements have with the Commission's mandate?

In actual fact, these gratuitous accusations, in disregard of the adversarial principle, which was fully used in the case of Amnesty International and the Union des forces de changement, demonstrate the complicity between Chairman Abakar, Amnesty International and the Union des forces de changement, and remove all credibility from this partial and one-sided report, which the Government of Togo accordingly deems inadmissible.

(d) The Government of Togo, which is committed to respect for human rights and freedoms, will not deviate from the principles it has always held. It will promote the rule of law and freedoms without allowing itself to be provoked by those who, like Gilchrist Olympio and his accomplices, make a pretence of respecting human rights, but who have repeatedly led violent attacks against the Togolese population, attacks which really have resulted in several hundred victims.

Annex II to the letter dated 22 February 2001 from the Permanent Representative of Togo to the United Nations addressed to the Secretary-General

[Original: English and French]

19 February 2001

I am writing to you in response to your letter of 7 February 2001 concerning the report of the International Commission of Inquiry for Togo.

As Secretary-General Kofi Annan has already informed you in his letter of 13 February 2001, we have agreed that both the report and the comments on the report made by the Government of Togo and Amnesty International respectively, should be made available to the Commission on Human Rights.

While reiterating our appreciation to all the members of the Commission for accepting to undertake this task, I wish to point out that we are of the view that some aspects of the report contain serious shortcomings and point to the fact that the investigation was not conducted as thoroughly as it should have been.

(*Signed*) Salim Ahmed **Salim**